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Testimony to Texas House Committee on County Affairs
Subject: SB 1849 Implementation

My name is Greg Hansch. I serve as Public Policy Director for the Texas affiliate of the National Alliance on Mental Illness, NAMI Texas. Thank you for the opportunity to provide testimony on SB 1849 implementation. NAMI TX has 28 local affiliates throughout Texas and approximately 2,000 members.

There are many important mental health components of SB 1849. In the interest of time, I will limit my comments to two sections.

1. SECTION 4.02. - Section 1701.253, Occupations Code – law enforcement officer school curriculum requirements

This pertains to 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. It requires, as part of the minimum curriculum requirements, the commission to require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer is required to complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

Our intent is ensuring that the 40-hr mental health training for law enforcement officers includes useful and practical information and incorporates the perspective of people with lived experience and their families. NAMI Affiliates have been partners in local CIT programs nationwide since the first program was started in Memphis is 1988.

We believe that:

• Basic Goals of CIT – a.) Improve officer and consumer safety, b.) Re-direct individuals with serious mental illness from the criminal justice system to the health care system, where they generally experience better outcomes

• CIT depends upon community, health care, and advocacy partnerships

• CIT training reduces the use of force and helps officers understand the importance of utilizing diversion programs as an alternative to incarceration

TCOLE is in the process of revising the 40 hour crisis intervention training used for the Mental Health Officer Curriculum. We assume that this is what will be used for the 40-hour requirement imposed by SB 1849. This revision is being done, it appears, by Victim and Employee Support Services at the Department of Public Safety. Yesterday, a copy of the latest draft of the revised curriculum was sent by DPS. As you might imagine, we have not had time to conduct a full review of the latest revised curriculum. That being said, a quick skim of it reveals opportunities for improvement. Just for the sake of example, it doesn't use person-first language – it still uses terminology like 'the mentally ill' to describe individuals living with mental illness. It doesn't change aspects of the curriculum that have been criticized by many involved in implementing it. These are the sort of recommendations and concerns that can emerge through a process that engages the range of key stakeholders affected by a curriculum change – consumers, families, rank-and-file, CIT officers, mental health professionals, etc. So our concern about this revision is mostly around process - the most meaningful revisions would come through a public input process that incorporates the range of perspectives. This is too important of a change for it to be done by an individual or a small group at a state agency. In conducting this revision, DPS has expressed that that need help with the consumer and family presentation component, among other components. Stakeholders can help with these aspects of implementation if we are given the opportunity. NAMI's In Our Own Voice Program is perfect for that aspect of the curriculum.

2. SECTION 3.06. Section 511.009, Government Code

Legislation: "The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody."

Our interest: ensuring that the prescription drug continuity rules are strong and factor in mental health medications

Discontinuing mental health medications can be extremely damaging and sometimes fatal.

UT School of Law Civil Rights Clinic: Preventable Tragedies How to Reduce Mental Health-Related Deaths In Texas Jails: There have been several demonstrative recent examples. In a couple of these examples, individuals were prescribed Xanax in the community, denied Xanax by the jail, and died from severe seizures during withdrawal from their prescribed medication. Another well-publicized example is of a person who had been taking methadone and Seroquel as prescribed, and then was denied by the jail, who had a written policy

against allowing either of those medications (and others) in the jail. This individual died after just a few days of being in the jail.

Recommendation 1: The rules should require that inmates and prisoners who are determined to be lawfully taking a prescription medication when they enter the county jail be maintained on that same prescription medication until a qualified health care professional directs otherwise upon individualized consideration. This aligns with the American Bar Association's Standards on Treatment of Prisoners.

Recommendation 2: Require every county jail to create a formulary and related procedures. At a minimum, every county jail should have a written formulary. In accordance with national standards, county jails should also have procedures for updating their formulary and for prescribing and acquiring non-formulary medication.

According to the National Commission on Correctional Health Care's standards, a jail should maintain a formulary for clinicians and a procedure for timely acquisition of pharmaceuticals. The jail should also have a procedure for the use of non-formulary medications, and should allow non-formulary medication prescribed by outside providers if approved by a jail physician. Even small and medium-sized counties can and should maintain a formulary with an appropriate set of mental health medications.

Recommendation 3: Adopt standard clarifying counties may have policies allowing for inmates to take previously prescribed medications

Some counties will allow inmates to continue taking previously prescribed medications. For example, one county's policy provides for verifying medications brought to the jail and ordering the prescription through the jail's pharmacy. Anecdotally, we know of other counties that will allow families to bring previously prescribed medications to a pharmacy, have those medications repackaged and certified by a pharmacist, and then deliver those medications to the jail. It's important to note what an improvement this is over the vague policies of certain other counties, which basically just provide for confiscation and state that only medication prescribed by the jail doctor will be dispensed, or over other counties, which as of a few years ago flatly refused a number of common medications.

Being that this practice of having medications is already taking place in just a few areas, I think what is needed is standard that clarifies that counties may have policies allowing for it.

Recommendation 4: TCJS should conduct outreach to jails to raise awareness of TDCJ Rider 39: Continuity of Care. (a) Out of the funds appropriated above in Strategy B.1.1, Special Needs Programs and Services, the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) shall coordinate with the Texas Department of State Health Services, county and municipal jails, and community centers as

defined in the Texas Health and Safety Code §534.001 on establishing methods for the continuity of care for pre- and post-release activities of defendants who are returned to the county of conviction after the defendant's competency has been restored. (b) As part of the Continuity of Care Plan and in an amount not to exceed $500,000 each fiscal year, HHSC shall provide a 90-day post-release supply of medication to defendants who, after having been committed to a state mental health facility for restoration of competency under Chapter 46B, Code of Criminal Procedure, are being returned to the committing court for trial. The 90-day supply of medication shall be the same as prescribed in the Continuity of Care Plan prepared by the state mental health facility. Out of funds appropriated above in Strategy B.1.1, Special Needs Programs and Services, TCOOMMI shall enter into a memorandum of understanding with HHSC for the purpose of reimbursing HHSC in an amount not to exceed $500,000 each fiscal year for providing medication to defendants. TCOOMMI shall report amounts reimbursed to HHSC to the appropriate legislative oversight committees by October 1 of each fiscal year.

Recommendation 5: Jails should be required to review and keep on file the formularies of their area LMHAs and state hospitals to promote jail formularies including necessary mental health medications.

Recommendation 6: The standards should address continuity of medication on the back end, as people are leaving jail. What that looks like, I don't know, but it should be addressed in the standards.

Recommendation 7: TCJS should engage the full range of stakeholders in the Work Group developing the medication continuity standards. NAMI TX has expressed that we would like to serve. Mental health medications must be a key consideration in the discussion around these standards.

Recommendation 8: TCJS should require counties to report to TCJS on medication gaps. TCJS should be aware of all medications, including non-formulary medications, that inmates need but county jails are not able to obtain. TCJS should collect and review this data and, in coordination with DSHS and LMHAs, develop strategies for filling these medication gaps.

Recommendation 9: Require county jails to adopt the mental health portion of the DSHS formulary. The best way to ensure that people who cycle between the community and jail have continuity of care is to require county jails to provide all of the same mental health medications that an LMHA provides.

Recommendation 10: Legislature should investigate recent Colorado legislation - Creating a Statewide Medication Formulary – Statewide Purchasing Cooperative- Colorado SB17-019